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ON THE PREVENTION OF CRIME
AND THE TREATMENT OF OFFENDERS

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Item 4 of the provisional agenda*

ACTION AGAINST NATIONAL AND TRANSNATIONAL ECONOMIC AND ORGANIZED CRIME, AND THE ROLE OF CRIMINAL LAW IN THE PROTECTION OF THE ENVIRONMENT: NATIONAL EXPERIENCES AND INTERNATIONAL COOPERATION

Communication dated 23 November 1994 from the Secretary for Justice of Argentina to the Executive Secretary of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

The Secretary for Justice of Argentina has the honour to request that, in accordance with the rules of procedure in force for the holding of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, appropriate action should be taken to enable the attached draft resolution to be considered by that gathering.

Please accept the renewed assurances of my highest consideration.

(*Signed*) Elias Jassan
Secretary for Justice

*A/CONF.169/1.

DRAFT RESOLUTION

General world convention on organized transnational crime

The United Nations Ninth Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling General Assembly resolution 46/152 of 18 December 1991, in which the Assembly approved the statement of principles and programme of action of the United Nations crime prevention and criminal justice programme, annexed to that resolution,

Acknowledging with appreciation the work of the World Ministerial Conference on Organized Transnational Crime, held at Naples from 21 to 23 November 1994, in particular the debates on items 8 and 9 of its agenda, as well as its recommendations on the feasibility of international instruments, including conventions, against organized transnational crime,

Recognizing that it is necessary for all States to agree on a way to maximize cooperation in order to elaborate an international convention that will make it possible to coordinate the struggle against organized crime so as to ensure greater effectiveness and flexibility and that will incorporate innovative legislative modalities, as regards both substantive and procedural legislation,

Recognizing also that an international convention would allow activities aimed at combating organized crime to be harmonized, resulting in considerable possibilities for successful action,

Conscious that an international convention could provide mutual benefits for all States, and particularly for the parties to that convention,

Conscious also that international cooperation is necessary as a primary preventive measure aimed at preventing and reducing transnational crime; improving crime prevention and criminal justice policies; establishing and maintaining suitable channels of communication and information among the authorities or institutions responsible for the prevention of transnational crime; raising the level of training, information and specialization of staff involved in combating such crime; and introducing technical assistance arrangements, particularly for those developing countries affected by such crime, without excluding developed countries,

1. *Invites* the Commission on Crime Prevention and Criminal Justice to give priority to studying the feasibility of an international convention on organized transnational crime, consulting Governments on matters to be included in the convention and inviting them to express their views on the elements contained in the annex to the present resolution;

2. *Requests* the Secretary-General to give the necessary assistance to ensure the implementation of the present resolution.

Annex

ELEMENTS FOR POSSIBLE INCLUSION IN AN INTERNATIONAL CONVENTION AGAINST ORGANIZED TRANSNATIONAL CRIME

The following elements might be included in an international convention against organized transnational crime:

(a) The development of both substantive and procedural national legislation against transnational criminal organizations and their activities, in harmony with the legislation of other States;

(b) The utilization of all available arrangements for international cooperation against transnational criminal activities, and the implementation on a larger scale of existing measures at the regional level;

(c) The development of regulatory measures and administrative regulations that would make the commercial and banking sectors more transparent and accountable and therefore less susceptible to infiltration by transnational criminal organizations;

(d) The taking of concerted action against money-laundering and the use of the proceeds of crime, including the exertion of pressure on tax havens to tighten up their procedures and to cooperate in developing a higher level of transparency;

(e) The provision of mutual assistance among States by delivering the persons, evidence and assets requested by a party to the convention, according to the principles contained in the Model Treaty on Extradition,[1] the Model Treaty on Mutual Assistance in Criminal Matters (together with its Optional Protocol concerning the proceeds of crime)[2] and the Model Treaty on the Transfer of Proceedings in Criminal Matters;[3]

(f) The development of uniform techniques of investigation and prosecution against transnational criminal organizations, including more sophisticated means of gathering information, collecting evidence and analysing financial flows and/or investigating suspicious transactions, and the setting up of specialized national investigative units to deal specifically with organized crime;

(g) The exchange of information in order to assist other States in the investigation, apprehension and prosecution of those engaged in transnational crime;

(h) The provision of positive responses to requests for judicial assistance and other forms of technical assistance, with a view to strengthening national criminal justice and law enforcement systems against transnational criminal organizations;

(i) The consideration of modalities for encouraging States to implement the convention fully;

(j) The adoption of collective measures to ensure that there are no safe havens and to avoid tacit support for, or collusion with, transnational criminal organizations.

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[1]General Assembly resolution 45/116, annex, of 14 December 1990.

[2]General Assembly resolution 45/117, annex, of 14 December 1990.

[3]General Assembly resolution 45/118, annex, of 14 December 1990.

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Items 3, 4, 5 and 6 of the provisional agenda*

INTERNATIONAL COOPERATION AND PRACTICAL TECHNICAL ASSISTANCE FOR STRENGTHENING THE RULE OF LAW: PROMOTING THE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME

ACTION AGAINST NATIONAL AND TRANSNATIONAL ECONOMIC AND ORGANIZED CRIME, AND THE ROLE OF CRIMINAL LAW IN THE PROTECTION OF THE ENVIRONMENT: NATIONAL EXPERIENCES AND INTERNATIONAL COOPERATION

CRIMINAL JUSTICE AND POLICE SYSTEMS: MANAGEMENT AND IMPROVEMENT OF POLICE AND OTHER LAW ENFORCEMENT AGENCIES, PROSECUTION, COURTS AND CORRECTIONS; AND THE ROLE OF LAWYERS

CRIME PREVENTION STRATEGIES, IN PARTICULAR AS RELATED TO CRIMES IN URBAN AREAS AND JUVENILE AND VIOLENT CRIMINALITY, INCLUDING THE QUESTION OF VICTIMS: ASSESSMENT AND NEW PERSPECTIVES

Communication dated 2 December 1994 from the Secretary for Justice of Argentina to the Executive Secretary of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

I have the pleasure of addressing myself to you, the Executive Secretary of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in order to request you to circulate among the Member States, in accordance with the rules of procedure for the Ninth Congress, the recommendations of the National Preparatory Meeting for the Ninth Congress held at Buenos Aires, Argentina, from 7 to 10 August 1994.

We would also request that the above-mentioned recommendations should be discussed in connection with each of the topics before the Ninth Congress as they appear in the text duly transmitted to the Secretariat.

(*Signed*) Elias Jassan

*A/CONF.169/1.

DRAFT RESOLUTION

Recommendations of the National Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Buenos Aires from 7 to 10 August 1994

I. INTERNATIONAL COOPERATION AND PRACTICAL TECHNICAL ASSISTANCE FOR STRENGTHENING THE RULE OF LAW: PROMOTING THE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME (TOPIC 1)

1. The National Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Buenos Aires from 7 to 10 August 1994 decided, in relation to topic 1, on international cooperation, to accept the following proposals:

(a) With regard to the institution of extradition, the principle of the broadest possible cooperation among States should be established, with a view to standardizing applicable principles and powers, so that the granting of extradition will be the rule and its refusal the exception, taking into account the rights of the accused and also the interests of the victim;

(b) In cases of refusal of extradition, it is proposed that the rule should be established that the requested State must, upon application from the requesting State, assume responsibility for trying the person sought;

(c) The transfer of the person sought should be facilitated even when the latter pleads action pending in the requested State, consideration being given to the legal claims affected, the seriousness of the acts and the amount of the penalty;

(d) An attempt should be made, through multilateral agreements, to find homogeneous terminology in relation to the different types of offence;

(e) Trafficking in narcotics drugs, air piracy, the illicit traffic in children, attacks on satellite communication media, terrorism and computer-related crimes should be established as international crimes;

(f) Member States should be urged to update their domestic legislation in conformity with the principles and recommendations adopted by the United Nations congresses on the prevention of crime and the treatment of offenders;

(g) Finally, it is proposed, as a result of the present Meeting, that a recommendation should be made to the National Congress of Argentina for the adoption in that country of regulations that will further the objective stated above, so that the desired regulatory basis exists by the time that the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders is held.

II. ACTION AGAINST NATIONAL AND TRANSNATIONAL ECONOMIC AND ORGANIZED CRIME AND THE ROLE OF CRIMINAL LAW IN THE PROTECTION OF THE ENVIRONMENT: NATIONAL EXPERIENCES AND INTERNATIONAL COOPERATION (TOPIC 2)

2. The Meeting further decided to accept the following:

(a) The proposal made under topic 2 concerning measures against organized economic crime and the need for Argentina to promote the introduction, discussion and adoption of an international convention on the laundering of assets;

(b) Relevant elements for the preparation of a preliminary draft should be obtained from the competent agencies of the international and multilateral organizations;

(c) A request will be made for the proposal to be submitted, through the relevant institutional channels, to the World Ministerial Conference on Organized Transnational Crime, to be held at Naples, Italy, from 21 to 23 November 1994;

(d) Approval is given in principle to the elements discussed under topic 2:

(i) Limiting the use of cash in financial transactions;

(ii) The role of financial institutions and their obligation to give information on suspicious operations;

(iii) Regulating the activities of casinos and gambling houses;

(iv) An information regime to which financial institutions should be subject, and the role of the training of their staff;

(v) The obligation to preserve records;

(vi) Limiting legal and professional secrecy;

(vii) Establishing security systems in data processing;

(viii) Establishing money-laundering as an offence, with sanctions for juridical persons;

(ix) A system for the confiscation of the proceeds of crime and the derived economic benefits;

(x) Extraterritorial application of criminal law.

3. On the question of "practical measures against corruption" of public officials, attention was drawn to the need to take up, and give special treatment to, the issue of the "de-bureaucratization" of administrative procedures or formalities as a desirable way of discouraging corrupt conduct. It is also proposed that public administration should be computerized as a means of control to help reduce corrupt practices in the administrative area. It is further suggested that customs and immigration procedures and formalities should be standardized at the regional and international levels in order to counter organized transnational crime more effectively. The manual on practical measures against corruption[1] prepared by the Secretariat should be borne in mind, as well as the establishment, at the international, regional and national levels, of a code of conduct for public officials.

4. With regard to environmental protection, the following proposals are made:

(a) The right to enjoy an adequate environment and the duty to preserve the environment should be established in all legislations at the national level;

(b) A chapter concerning environmental offences should be included in penal codes;

(c) The necessary measures should be introduced to ensure that damage to the environment is repaired, either by the transgressors themselves or by the State;

(d) Cooperation agreements should be established between States, including provision for the exchange of experiences on prevention programmes and legislative effectiveness;

(e) The subject of environmental protection should be included at all educational levels, and specifically in curricula for the study of criminal law, and human resources should also be developed to deal with these new problems, by means of degree courses, postgraduate courses, seminars and any other form of training;

(f) Not only should environmental offences be established as a class of offence in penal codes, but also, in the administrative area, offending enterprises should be subject to financial penalties;

(g) Regarding penal sanctions themselves, the principle of subjective culpability should be maintained.

III. CRIMINAL JUSTICE AND POLICE SYSTEMS: MANAGEMENT AND IMPROVEMENT OF POLICE AND OTHER LAW ENFORCEMENT AGENCIES, PROSECUTION, COURTS AND CORRECTIONS; AND THE ROLE OF LAWYERS (TOPIC 3)

A. The role of lawyers

5. The profile of a law graduate with the title of lawyer should be completed by training in the interdisciplinary area of crime prevention.

6. Scientific-professional training should aim to orient the student, within his specific area of work, towards social welfare aspects so that, going beyond the conventional framework of legal advice or the settlement of legal disputes, he can perform juridico-social tasks in the prevention field.

7. Such training should be further strengthened in the area of postgraduate studies in specialities linked with criminal law. For these purposes, account should be taken of the conditions in which the profession finds itself at the present time as a result of relations at the world level, new technological advances and legal innovations, including the new judicial areas and international courts of regional scope, and the need to introduce solutions involving prison mediation and arbitration to facilitate access to justice, including local courts and courts of minor jurisdiction.

B. Correctional systems

8. The idea should become established that the correctional system is part of crime policy and interrelated with all the sectors of crime prevention and criminal justice.

9. Recognizing that the humanization of penalties is an important objective, since up to now sanctions have been conceived as an essentially retributive response, and that prison systems are not in a position to meet expectations regarding crime prevention, the Meeting recommends, with regard to the prison system proper:

(a) The establishment of a relation between the prison "microsystem" and the macrosystem of criminal justice, and the introduction of legislation in the area of criminal law and criminal procedure that is scientifically based and that avoids temporally conditioned, partial measures that would have a reverse effect;

(b) The strengthening of schools for the training of prison officers or personnel as an essential priority in the modernization of the system;

(c) The establishment of a system of exchange of information and of technical cooperation at the international, regional and national levels to facilitate the training of prison personnel and to improve knowledge of the system and the possibilities of investigation;

(d) Improved use of open prisons, even for recidivists;

(e) The review and, as appropriate, amendment of regulations governing prison staff and inmates in line with a system of punishment adapted to the preservation of respect for the inmate as a citizen under a democratic political system where fundamental rights are guaranteed;

(f) Legislation, on an appropriate scientific basis, taking account of regional peculiarities, for new responses to crime such as suspension of proceedings for the purpose of probation, conditional sentences, community work, weekend work, commencement and completion of studies, physical and psychological therapy, or keeping away from certain places.

C. Prosecution

10. The idea should become established in the prosecution service or government procurator's office that the choice of the right policy for criminal prosecution transcends the sphere of crime prevention since the orientation of prosecution towards a group of offences that poses, at a particular time or place, greater danger to the security of the population allows the establishment of a suitable system of compensation for the social expectations of prevention.

11. It should be stressed that prosecution policy is not to be confused with crime policy and that the former will in no way prejudice the principle of legality, nor does it imply acceptance of the theory of "bagatelle" crimes or of "minimum significance".

D. Judiciary

12. A distinction should be made between countries where constitutional provisions and the rules of criminal procedure are not in harmony with the minimum rules for a criminal justice administration providing due safeguards and countries that do have legal provisions of this type. In the first case, the inclusion of such rules in the criminal procedure systems should be urged. In the second case, it is recommended that, in conformity with differing regional situations, instruments should be made available that will help to bring the reality in line with the rules. Regarding the provisions of the minimum rules for the administration of criminal justice, it is recommended that the changes below should be introduced, in line with the deliberations of the body that examined them during the Meeting.

13. *The principle of opportuneness.* The Office of the Public Prosecutor may refrain from prosecuting a punishable act only under the following conditions:

(a) The act must not be punishable by a severe penalty (not subject to a penalty more severe than deprivation of liberty for two years);

(b) The court responsible for the case must approve the dropping of charges.

14. *Appeals.* The right to a second hearing requires that a higher court should have the power to review the findings at first instance, including:

(a) Correct application of the law;

(b) Rationality in the consideration of the evidence;

(c) Compliance with the procedural rules established in state legislation and the other guarantees of due process.

15. *Support services for courts.* Courts should have the cooperation of specialized judicial organs to provide them with the necessary data for an individualization of penalties and measures of treatment with a view to the social reintegration of the convicted person.

16. *Suggestion for States.* It is recommended that States should make efforts in the area of publicity and information to make the public aware that respect for guarantees is not a factor that will increase crime.

17. The text should be submitted to the Ninth Congress for further study and scientific discussion.

18. Specifically, the independence of the judiciary should be consolidated and it should be equipped with the necessary human and technical resources to safeguard the interests of citizens who find themselves in a situation of conflict and, as a result, are defendants or parties in legal proceedings, without forgetting the interests of the victim and of injured third parties.

19. Judges, officials, officers and the community in general should be made well aware of the existence of new forms of criminality, such as economic crime and trafficking in narcotic drugs, and of the need for specific scientific and technical training for their investigation and prosecution.

20. With regard to juvenile offences, it is recommended that:

(a) Governmental structures (administrative and judicial), as well as non-governmental structures, should be reformulated in all jurisdictions so as to be brought in line with the Convention on the Rights of the Child[2] and so as to be consistent with regard to the formulation of policies for juveniles and proper coordination in their implementation;

(b) The holding in police stations, prisons of different kinds and institutions directed by the penitentiary services of persons under 18 years of age who have violated criminal laws should be eradicated;

(c) In all jurisdictions, programmes offering alternatives to the institutionalization of children and adolescents in conflict with criminal law should be developed, through systems of immediate evaluation, assisted liberty, specific treatment, community strategies or other modalities different from those involving deprivation of liberty, interdisciplinary teams being available for all these procedures;

(d) In those exceptional cases where the treatment of persons under 18 in a closed regime is temporarily required, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty[3] should be applied;

(e) Regarding the training of personnel, it should be guaranteed that everyone assuming responsibility over children and adolescents, at whatever level, both in public and in private systems, should have adequate specialized training;

(f) Policies and programmes should be formulated to protect children against all forms of trafficking, exploitation, abuse and use as instruments in crime on the part of adults.

IV. CRIME PREVENTION STRATEGIES, IN PARTICULAR AS RELATED TO CRIME IN URBAN AREAS AND JUVENILE AND VIOLENT CRIMINALITY, INCLUDING THE QUESTION OF VICTIMS: ASSESSMENT AND NEW PERSPECTIVES (TOPIC 4)

21. It is recommended that short-term and medium-term preventive measures should be adopted in the fields of urban planning, housing, education and vocational training in areas of high marginality resulting from internal and external migratory movements.

22. Prevention strategies are recommended involving integrated, global short-term and medium-term approaches to offer urgent responses in extensive zones with a high crime risk.

23. It is recommended that the continuity of social programmes and specific measures at the crime prevention level should be ensured as a basic factor for the understanding of the problems that lead to urban crime and for providing concrete assistance in this regard, requiring the commitment of the actors involved, since one of the major obstacles and reasons for failure in the implementation of programmes is discontinuity resulting from constant changes in regional development policies.

24. The development of criminological research is necessary in view of its importance as a basis for information on the criminality of a region and for the design of criminal policies and crime prevention strategies.

25. The establishment of crime prevention centres is recommended, taking into account the results achieved by the provinces having such centres, and adapting them to local needs.

26. It is recommended that offices should be established to care for victims, assisting them in a comprehensive manner, preventing double victimization and helping the recovery of them and their families. Their rights should be safeguarded and they should receive respectful and dignified treatment from justice officials.

27. It is recommended that the fundamental rights of children should be reaffirmed, that their victimization by the penal system should be avoided and that integrated responses should be sought, based on education and family networks. In view of the grave socio-cultural problem of juvenile delinquency, it must be understood from new perspectives involving responses different from traditional responses. These perspectives include the need to develop specific legislation to cope with the problem of children and young people at risk at the personal, family and social levels, within the context of the accelerated changes that characterize our time both internationally and nationally.

28. It is recommended that the legal training of all those involved with law should be strengthened by creating specialized institutes.

29. The work of international forums, including the Latin American Forum of Mayors for Urban Safety, should be supported.

30. It is recommended that the mass communication media should cooperate in the task of prevention, reviewing the methods of transmitting information on the different crimes and avoiding "making a spectacle out of crime".

31. There is no doubt that the media can play a very positive role in crime prevention. First, they can promote a sound understanding of the criminological phenomenon, dispelling popular myths and explaining the complex factors that condition the various manifestations of delinquency both in its traditional forms and in its new forms and dimensions. Secondly, they can contribute to developing attitudes among the public

towards the values of freedom, solidarity, tolerance and equality before the law, based on the conviction that freedom of expression and the press is an essential foundation of democratic life. With regard to mass communication in relation to the problems of juveniles and violence, it is recommended that the need should be stressed for effective ways of protecting fundamental values in the education of children and juvenile education. It was also recommended that seminars and courses should be held to consider the subject at the global, regional, subregional and national levels.

32. The preparation of a manual for victims is recommended, with a description of procedures and measures to which the victim can have recourse.

V. EXPRESSION OF THANKS TO THE BODIES AND STAFF MEMBERS WHO MADE THIS MEETING POSSIBLE

33. Lastly, the Meeting expressed its thanks to the City Council of Buenos Aires, the Secretariat for Justice of the Argentine Ministry of Justice, the Secretaría de Programación para la Prevención de la Drogadicción y Lucha contra el Narcotráfico, the Consejo Nacional del Menor y la Familia, and the Asociación Interiberoamericana de Ciencios Sociales and their executives and staff, for their generous and indispensable assistance.

34. Thanks were also expressed for the cooperation of the International Scientific and Professional Advisory Council.

35. The Meeting also thanked E[illegible]uardo Vetere, Head of the Crime Prevention and Criminal Justice Branch of the United Nations Office at Vienna, for his important participation in this event.

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[1]A/CONF.144/8 and Corr.1.

[2]General Assembly resolution 44/25, annex, of 20 November 1989.

[3]General Assembly resolution 45/113, annex, of 14 December 1990.

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Note verbale dated 2 December 1994 from the Permanent Mission of the Netherlands to the United Nations (Vienna) addressed to the United Nations Office at Vienna

The Permanent Mission of the Kingdom of the Netherlands to the United Nations (Vienna) presents its compliments to the United Nations Office at Vienna and has the honour to submit a draft resolution on the Standard Minimum Rules for the Treatment of Prisoners for submission to the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders under item 4 of the provisional agenda.

The Permanent Mission of the Kingdom of the Netherlands to the United Nations (Vienna) avails itself of this opportunity to renew to the United Nations Office at Vienna the assurances of its high consideration.

*A/CONF.169/1.

V.94-28740T

DRAFT RESOLUTION

Practical implementation of the Standard Minimum Rules for the Treatment of Prisoners

The Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Bearing in mind the long-standing concern of the United Nations for the humanization of criminal justice systems in general and prison systems in particular,

Recognizing that the Standard Minimum Rules for the Treatment of Prisoners,[1] adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, are of paramount importance to the development of penal policies and practices,

Considering the concern of previous United Nations congresses on the prevention of crime and the treatment of offenders regarding the various obstacles that prevent the full implementation of the Standard Minimum Rules,

Recalling the resolutions of previous congresses on the position of prisoners, in particular the resolution on the status of prisoners[2] and the resolution on human rights for prisoners,[3] adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and General Assembly resolution 45/111 of 14 December 1990, on the Basic Principles for the Treatment of Prisoners, adopted on the recommendation of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling Economic and Social Council resolution 1994/18 of 25 July 1994, on United Nations standards and norms in crime prevention and criminal justice, adopted on the recommendation of the Commission on Crime Prevention and Criminal Justice, in which the Council endorsed the questionnaire on the Standard Minimum Rules for the Treatment of Prisoners,

Stressing the importance of the international exchange and dissemination of information and views on the practical operation of prison systems, not only among Governments but also among professional organizations, scientific institutions, non-governmental organizations and the public at large,

Being aware of the need to make prison administrations respond to forms of political control and judicial or other supervision,

Believing that the full implementation of the Standard Minimum Rules for the Treatment of Prisoners would be further facilitated by making widely available to the prison administrations of Member States a practical manual on the interpretation and application of the Standard Minimum Rules,

Taking note with appreciation of the work that has been carried out by Penal Reform International to that end in preparing a manual entitled *Making Standards Work*,

1. *Invites* Member States:

(a) To respond, if they have not yet done so, as a matter of urgency to the questionnaire on the Standard Minimum Rules for the Treatment of Prisoners;

(b) To exchange views on improving prison conditions and to strengthen their cooperation in that area;

(c) To share information regarding practical conditions in penal institutions with the public at large and with relevant non-governmental organizations in particular;

(d) To stimulate and support studies of prison systems undertaken by the academic world and by non-governmental organizations;

(e) To enhance transparency in prison systems and their functioning by providing ways and means of monitoring them by independent bodies, such as judicial supervision or parliamentary control, independent complaint commissions or an ombudsman;

2. *Invites* the Commission on Crime Prevention and Criminal Justice to keep the matter of prison conditions under regular review and, in particular, recommends that the open-ended in-sessional working group on United Nations standards and norms in crime prevention and criminal justice should establish, at the fourth session of the Commission, efficient monitoring mechanisms to that end;

3. *Welcomes* the initiative taken by Penal Reform International in preparing the manual entitled *Making Standards Work*, thereby providing a useful practical instrument to help those working daily with prisoners, including the prison management, to observe international standards;

4. *Requests* the Secretary-General to make the manual amply available to all interested Member States in the official languages of the United Nations, as a joint publication of the United Nations and Penal Reform International;

5. *Recommends* the Commission on Crime Prevention and Criminal Justice to keep under review the practical impact and utility of the manual as perceived by Member States.

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[1]See *Human Rights: A Compilation of International Instruments* (United Nations publication, Sales No. E.88.XIV.1), sect. G.

[2]See *Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat* (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. E.10.

[3]Ibid., sect. E.17.

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Note verbale dated 2 December 1994 from the Permanent Mission of Austria to the United Nations (Vienna) addressed to the Crime Prevention and Criminal Justice Branch of the Secretariat

The Permanent Mission of Austria to the United Nations (Vienna) presents its compliments to the Crime Prevention and Criminal Justice Branch of the Secretariat and has the honour to transmit as enclosure a draft resolution under item 4 of the provisional agenda of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

The Permanent Mission of Austria to the United Nations (Vienna) avails itself of this opportunity to renew to the Crime Prevention and Criminal Justice Branch the assurances of its highest consideration.

*A/CONF.169/1.

V.94-28746T

DRAFT RESOLUTION

Application of United Nations standards and norms in juvenile justice

The Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling General Assembly resolution 45/115 of 14 December 1990, on the instrumental use of children in criminal activities,

Recalling also that the General Assembly, on the recommendation of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, adopted the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules),[1]

Recalling further that the General Assembly, on the recommendation of the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, adopted the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)[2] and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty,[3]

Noting with appreciation that the Convention on the Rights of the Child[4] had been ratified by 168 States as of 27 January 1995,

Deeply concerned about the severity and brutality with which children and juveniles are used instrumentally in criminal activities in many regions of the world,

Alarmed by the rapid expansion in the exploitation of children,

Concerned about the legal standards of protection provided to children and juveniles in detention in many parts of the world,

Convinced that strengthened cooperation at the international, regional, national and local levels is needed to protect children from becoming victims of crime,

Calling upon Member States to actively support the United Nations crime prevention and criminal justice programme in developing initiatives to promote the effective use and application of United Nations standards and norms in the field of juvenile justice,

1. *Takes note with appreciation* of the recommendations of the expert group meeting on children and juveniles in detention: application of human rights standards,[5] held at Vienna from 30 October to 4 November 1994, which are annexed to the present resolution;

2. *Expresses* its thanks to the Austrian Government for the generous support that made it possible to convene the expert group meeting;

3. *Welcomes* the kind offer of the Austrian Government to act as host to a follow-up meeting to the expert group meeting in 1995;

4. *Recommends* that juvenile justice should be designated as a priority issue within both the United Nations crime prevention and criminal justice programme and the human rights programme of the United Nations;

5. *Calls upon* the United Nations Children's Fund, the Commission on Crime Prevention and Criminal Justice, the Commission on Human Rights and the Committee on the Rights of the Child to give priority to the issue of juvenile justice;

6. *Urges* the Commission on Crime Prevention and Criminal Justice to integrate into the process of information-gathering United Nations standards and norms in juvenile justice and to request all States to submit to the Commission at its sixth session information on the implementation of those standards and norms at the national level, the difficulties encountered in their implementation and the solutions envisaged to remedy existing shortcomings;

7. *Requests* States, with the support of relevant United Nations bodies as well as the institutes comprising the United Nations crime prevention and criminal justice programme network, to ensure that education on human rights and international juvenile justice instruments is integrated, by the year 2000, into the training of law enforcement officials, judges, lawyers, prosecutors, social workers and other professionals concerned with juvenile justice matters, including policy makers, with a view to, *inter alia*, sensitizing those professionals to situations of social risk that cause children to be manipulated by adults into engaging in criminal activities;

8. *Also requests* States to ensure that immigration officers also receive such training by the year 2000, in view of the fact that every child under the jurisdiction of the State should be guaranteed children's rights;

9. *Encourages* the Crime Prevention and Criminal Justice Branch of the Secretariat to develop, in consultation with other relevant United Nations bodies, a code of conduct on children's rights for United Nations peace-keeping operations in order to prevent United Nations personnel from becoming involved in child exploitation and urges that the code of conduct should become an integral and necessary element of training for all such personnel embarking on missions;

10. *Invites* Member States, in cooperation with the relevant United Nations entities and institutes, to develop multidisciplinary educational programmes on the sexual exploitation of children, including the activities of paedophiles and paedophile networks, for law enforcement and other criminal justice personnel, as well as for persons in other relevant fields, such as health care and early childhood and primary education;

11. *Recommends* that States and national and international organizations should establish a pro-child, anti-crime network with the International Criminal Police Organization, national police, immigration and law enforcement agencies, and local community groups to guard against the instrumental use of children in criminal activities, and that each entity in that network should identify a focal point dealing with the exploitation of children in child prostitution and child pornography, in order to ensure constant vigilance and appropriate action;

12. *Urges* States and national and international organizations to underline, by means of national and international campaigns, the role of both the organizer and the customer in child exploitation and to seek the incrimination of customers of children victimized by prostitution and those who make, distribute or possess child pornography;

13. *Encourages* the Centre for Human Rights of the Secretariat, the Crime Prevention and Criminal Justice Branch, the United Nations Children's Fund and the World Tourism Organization to cooperate more closely in establishing a network aimed at the identification and elimination of all forms of sex tourism by, *inter alia*, adopting the draft declaration on organized sex tourism;

14. *Recommends* that systematic research into the causes and effects of the phenomenon of the instrumental use of children in criminal activities should be undertaken, with the support of the institutes comprising the United Nations crime prevention and criminal justice programme network, for the purpose of providing policy and decision makers with accurate information to guide the formulation of international and regional strategies to prevent and control such practices, and also recommends that such research should entail, *inter alia*:

(a) The delineation of types of criminal activities in which children are criminally used;

(b) The collection, dissemination and exchange of relevant information, including laws, policies, programmes and practices, by means of electronic and other networking;

(c) The identification of projects to prevent and control such practices;

15. *Invites* the Commission on Crime Prevention and Criminal Justice, the Commission on Human Rights and the Committee on the Rights of the Child to organize joint periodic missions to visit facilities where juveniles are deprived of their liberty or otherwise restricted and invites the Secretary-General to provide the resources necessary to effectively organize and carry out such missions, as well as to ensure appropriate follow-up;

16. *Calls upon* States and national and international organizations to explore measures to ensure compliance with the principle that the deprivation of liberty should only be used as a measure of last resort, both before trial and after conviction, bearing in mind the high rate of juveniles in remand and the considerable amount of time that they must often spend in custody;

17. *Recommends* that States, together with national and international organizations, should explore means to foster the independent monitoring of juvenile detention facilities, specifically the conditions under which juveniles are deprived of their liberty, focusing on, *inter alia*, the poor access of relatives, non-governmental organizations and other interested parties to such facilities, overcrowding, the lack of programmes for useful activities and exercise, and the frequency of physical and sexual assault, with a view to ensuring the full and effective implementation of the United Nations standards and norms in juvenile justice;

18. *Underlines* the need for adequate preparation of the missions of interregional advisers for crime prevention and criminal justice through needs assessment missions and the need for appropriate follow-up to comprehensive projects, and at the same time recognizes that the successful execution of such missions is contingent upon there being sufficient resources;

19. *Urges* the United Nations High Commissioner for Human Rights, in close cooperation with the Crime Prevention and Criminal Justice Branch, the United Nations Children's Fund and the Committee on the Rights of the Child, to develop strategies to ensure effective coordination of technical cooperation programmes in the field of juvenile justice;

20. *Recommends* that projects within the technical cooperation programmes in the field of juvenile justice should be executed on the basis of needs assessment missions and should entail appropriate evaluation and follow-up procedures, preferably through accompanying action-oriented research, and that regional institutes, the United Nations Children's Fund, other relevant United Nations bodies, national institutions and non-governmental organizations should be involved as an integral part of those activities;

21. *Requests* the Secretary-General to enable the Crime Prevention and Criminal Justice Branch, in cooperation with the Centre for Human Rights and the United Nations Children's Fund, to publish and widely

distribute, as a matter of priority, a manual on standards in juvenile justice and to ensure that adequate funding is provided for that purpose;

22. *Also requests* the Secretary-General to organize an expert group meeting, under the auspices of the Crime Prevention and Criminal Justice Branch and in cooperation with the Centre for Human Rights and the United Nations Children's Fund, to focus on the elaboration of a programme of action aimed at promoting the effective implementation of United Nations standards and norms in juvenile justice.

Annex

RECOMMENDATIONS OF THE EXPERT GROUP MEETING ON CHILDREN AND JUVENILES IN DETENTION: APPLICATION OF HUMAN RIGHTS STANDARDS, HELD AT VIENNA FROM 30 OCTOBER TO 4 NOVEMBER 1994

I. STANDARD SETTING AND IMPLEMENTATION

A. Measures of general application

1. We call upon all States which have not yet done so to ratify the Convention on the Rights of the Child and ensure its effective implementation.

2. We urge States to fully reflect the principles and provisions of the Convention on the Rights of the Child,[4] the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines),[2] the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)[1] and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty[3] in their national legislation and practice, in particular by establishing a child-oriented juvenile justice system, whether criminal, civil or other, which guarantees the rights of children, promotes their sense of dignity and worth and fully respects their age and their right to fully participate in and contribute to society.

3. We request all States to make the provisions of these instruments widely known to children in child-accessible language, and to adults and professional groups working with and for children.

4. We recognize the importance of a comprehensive national approach in the area of juvenile justice respecting the interdependence and indivisibility of all of the rights of the child.

5. We call on States to integrate into the school curricula, particularly at the primary school level, education on the Convention on the Rights of the Child. We further suggest that awareness be raised by other appropriate means, including the provision of information by campaigns on the rights of the child. We request all States to accord priority to the effective training of all those involved in the field of juvenile justice.

6. We urge States to guarantee those rights and to give the highest priority to the prevention of the violation of the rights of the child, including those arising in the area of juvenile justice. To this end the child should be clearly recognized as an active and responsible participant in society.

7. We urge States to adopt all necessary measures to ensure the non-derogability of fundamental children's rights and freedoms, including the freedom from discrimination; the right to life; the freedom from torture or other cruel, inhuman or degrading treatment or punishment; the freedom from any form of slavery or exploitation; the freedom of thought, conscience and religion; the right to be recognized as a person before the law; the right to be protected against retroactive penal laws; and the right to full benefit of all legal safeguards in the juvenile system as recognized in all relevant international instruments.

8. We recommend that States give serious consideration to the establishment of an independent mechanism, such as an ombudsperson, to ensure that the rights and best interests of the child are upheld in the light of existing international standards.

9. As a measure towards improving quality of life and to ensure greater social justice for all as protection against exploitation, elimination of poverty must be addressed with a sustained strategy, both in national and

international settings. States as well as international organizations such as the World Bank and the International Monetary Fund should reappraise development policies and programmes to integrate child development and protection more concretely into their implementation and to ensure greater equity, income distribution and resource allocation, including land reform and budget restructuring, for needy children and their families. "Child impact assessment" indicators and tests should be incorporated into all international, national and local development programmes.

B. Specific targets

10. We call upon all States to translate into practice, by the year 2000, the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

11. We request all States to ensure that the Convention on the Rights of the Child, the Riyadh Guidelines, the Beijing Rules and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty are translated into all national and ethnic languages, and are widely disseminated in respective national territories by the year 2000.

12. We urge States to ensure that all judges, lawyers, prosecutors, social workers and other professionals concerned with juvenile justice matters receive human rights and juvenile justice training by the year 2000.

13. We further urge States to incorporate the Convention on the Rights of the Child as well as international juvenile justice instruments as an integral part of all police training at least by the year 2000. Given that children's rights should be guaranteed to every child under the entire jurisdiction of the State, we see particular need for immigration officers to also receive such training by the year 2000.

II. COORDINATION AND TECHNICAL COOPERATION

14. We urge that the field of juvenile justice be given priority within the United Nations system-wide action, in particular by the Commission on Crime Prevention and Criminal Justice, the Commission on Human Rights, the Committee on the Rights of the Child and the United Nations Children's Fund (UNICEF).

15. In this regard, we recognize the urgent need for close cooperation between all bodies and mechanisms concerned with this field, including the Committee on the Rights of the Child, the Crime Prevention and Criminal Justice Branch, the Centre for Human Rights and UNICEF. Such cooperation should be strengthened particularly with regard to research, dissemination of information, training, implementation and monitoring of existing standards, as well as in the provision of technical assistance programmes.

16. The effective implementation of international standards in technical cooperation and advisory services programmes should be ensured by giving particular attention to the following aspects related to protecting and promoting human rights of juveniles in detention, strengthening the rule of law and improving the administration of the juvenile justice system:

(a) Strengthening national capacities and infrastructures;

(b) Training programmes for judges, prosecutors, lawyers, administrators, social workers and other professionals dealing with juvenile justice;

(c) Training programmes for law enforcement officials.

17. In the elaboration of such programmes, the Centre for Human Rights and the Crime Prevention and Criminal Justice Branch should take into consideration the recommendations of relevant bodies of the United Nations system, in particular those of the Committee on the Rights of the Child, and take them into account in the execution of these programmes as well as in appropriate follow-up activities.

18. In accordance with his mandate, the United Nations High Commissioner for Human Rights, in close cooperation with the Crime Prevention and Criminal Justice Branch, the Committee on the Rights of the Child and UNICEF, should develop strategies in order to ensure effective coordination of the respective technical cooperation programmes in the field of juvenile justice.

19. Projects under these programmes should be executed on the basis of needs assessments and should include appropriate evaluation and follow-up procedures, preferably by methods of accompanying action research, with the participation of children. Regional institutes, UNICEF and other relevant bodies as well as national institutions and non-governmental organizations should be an integral part of these activities.

20. We stress the importance of adequate financial and human resources for such programmes. In this context, we underline the need for adequate preparation of the missions of the United Nations interregional advisers in crime prevention and criminal justice through needs assessment missions as well as through appropriate follow-up for comprehensive projects.

21. We recommend that the United Nations crime prevention and criminal justice programme publish and widely distribute a manual on standards of juvenile justice as a matter of priority, in cooperation with the Centre for Human Rights and UNICEF, and that adequate funding be provided for this purpose.

22. In view of the need to strengthen the monitoring capacity of the United Nations system in the field of juvenile justice, we urge States parties to the Convention on the Rights of the Child to provide in their periodic reports to the Committee comprehensive information on the implementation of the provisions of the Convention and related United Nations standards adopted in this field, in particular the Riyadh Guidelines, the Beijing Rules and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

23. Furthermore, appreciating the establishment of a working group to monitor the application of United Nations norms and standards in crime prevention and criminal justice, we urge the Commission on Crime Prevention and Criminal Justice to introduce juvenile justice standards into the process of information gathering and to request States to submit information to the sixth session of that Commission on the way such United Nations norms and standards are effectively implemented at the national level, the difficulties encountered and the solutions envisaged to remedy the existing shortcomings.

24. We urge that due attention be paid to a periodic exchange of all of the information gathered between all those United Nations bodies concerned, always maintaining close cooperation with non-governmental organizations and other relevant entities.

III. CHILDREN AND JUVENILES DEPRIVED OF THEIR LIBERTY

25. We call upon the Commission on Crime Prevention and Criminal Justice, the Commission on Human Rights, through its relevant mechanisms, and the Committee on the Rights of the Child to organize joint periodic missions to visit facilities where juveniles are deprived of their liberty or otherwise restricted. In this regard, we invite the Secretary-General to provide the necessary means to effectively organize and carry out such missions, as well as to ensure appropriate follow-up to them.

26. We urge States to ensure easy access by relatives, non-governmental organizations and interested individuals to facilities where juveniles are deprived of their liberty or otherwise restricted, in order to maintain a link between the detained juvenile and his or her family and community, to facilitate his or her social reintegration and to allow for monitoring and reporting on the conditions in these facilities. We urge States to allow independent monitoring bodies access to such facilities.

27. We call upon States, intergovernmental and non-governmental organizations to raise awareness of situations for juveniles deprived of their liberty and, in particular, on the high rate of juveniles on remand and the length of periods for which they are held in custody. In addition, the conditions under which juveniles are deprived of their liberty need to be highlighted with emphasis on, *inter alia*, overcrowding, lack of programmes for useful activities and exercise, the frequency of physical and sexual assault and the corresponding risk of infection from the human immunodeficiency virus (HIV).

28. In order to ensure greater compliance with international standards concerning the rights of children, States are urged to take, *inter alia*, the following measures:

(a) Ensuring that legislation concerning the age of criminal responsibility, civil majority and consent does not have the effect of depriving any child of the full enjoyment of the rights recognized by the Convention on the Rights of the Child;

(b) Giving priority to setting up agencies and programmes to provide free legal and other assistance to children, and in particular, to ensure that the right of every child to automatically receive such assistance from the moment of arrest is respected in practice;

(c) Taking appropriate steps to make available throughout the country a broad range of alternative measures in order to ensure compliance with the principle that deprivation of liberty should only be used as a measure of last resort, both before trial and after conviction;

(d) Recognizing that the best interests of the child must be a primary consideration in all decisions and that any deprivation of liberty should be for the shortest appropriate period of time, indeterminate sentences should never be applicable to persons below the age of 18 and children should never be kept in closed institutions under a welfare pretext;

(e) Prohibiting legislation from allowing the application of the death penalty or life imprisonment to persons under the age of 18 at the time of the commission of the offence.

29. We urge States to adopt all necessary measures to prevent, forbid and eliminate the use of corporal punishment against children. In the light of existing international standards, we reaffirm that States should establish mechanisms to ensure a prompt, thorough and impartial investigation into allegations against public officials of violation of the fundamental rights and freedoms of children and to ensure that the findings of any such investigation are made public without delay and that those found responsible are duly punished.

30. We call on States to allow access through the judicial system to fair and adequate compensation for all child victims of violations of human rights, including torture and other cruel, inhuman or degrading treatment or punishment, unlawful or arbitrary deprivation of liberty, unjustifiable detention and miscarriage of justice. Necessary legal representation to bring an action within an appropriate court should be provided at state expense.

31. In all cases of deprivation of the liberty of a child, human rights and legal safeguards recognized by the Convention on the Rights of the Child and other relevant United Nations standards should be fully applied within the legal framework, including those elements relating to immigration. In this regard, special attention

should be paid to the situation of unaccompanied minors and others who are internationally displaced. The same principles should be reflected in the revised text of the 1961 convention concerning the powers of authorities and the law applicable in respect of the protection of infants,[6] which is currently under review. In accordance with the principles of deinstitutionalization and decriminalization, we urge States to examine these principles, giving particular attention to children in especially difficult circumstances.

IV. INSTRUMENTAL USE OF CHILDREN AND JUVENILES BY ADULTS IN AND FOR CRIMINAL ACTIVITIES

32. We recommend that systematic research into the causes and effects of the phenomenon of the instrumental use of children in and for criminal activities be undertaken, for the purpose of providing policy and decision makers with profound information and guidance which will serve as the basis for the formulation of international and regional strategies and measures to prevent and control such practices. Such research should entail, *inter alia*, the delineation of typologies of criminal activities in which children are instrumentally used, and the collection, dissemination and exchange of relevant information through electronic networking, including laws, policies, programmes and practices and successful pilot and demonstration projects.

33. The training of law enforcement and other justice personnel, as well as policy makers, should seek to sensitize these professionals to those situations of social risk which cause children to be manipulated by adults to engage in criminal activities.

34. The non-governmental sector active in the field of children's rights should receive every encouragement, both at the national and the international level, in their public awareness-raising campaigns and in their efforts to provide direct services or access to communities and social services for exploited children.

35. The mass media must be invited to engage in public awareness-raising activities to sensitize public opinion to the plight, special circumstances and vulnerability of children used as instruments of crime. At the same time, the mass media should be encouraged not to depict crime and violence as adventure, but to portray it in a responsible, serious manner.

36. Initiatives such as the provision of telephone hotlines, safe houses and emergency houses should be encouraged and made easily accessible to children.

37. We recommend that States should give greater attention to the development of educational programmes, to increase the accessibility of children, especially disadvantaged children, to educational facilities, including non-formal and part-time education. States should also establish innovative incentives to decrease school drop-out rates through assistance for families in need, such as the provision of free meals and textbooks and instruction in minority languages.

38. States should establish and promote adult education programmes to teach parents about the value of education, including education on child rights, and to encourage parental support for their children's education. States should establish and support education programmes for children to promote in them respect for human rights and the rule of law.

39. We urge States to establish qualitative and quantitative indicators to monitor the exploitation of children and their instrumental use in and for criminal activities.

40. Recognizing that a root cause of the instrumental use of children in and for criminal activities is adult criminality, communities should be mobilized to protect children through "community watch" programmes.

At the same time, States should pay particular attention to ensuring that such community-based measures conform to the rule of law, and establish safeguards to this effect.

41. We urge States and national and international organizations to initiate a pro-child, anti-crime network with the International Criminal Police Organization, national police, immigration and law enforcement agencies, and community groups to guard against the instrumental use of children in and for criminal activities. In order to promote rapid and effective communication as well as to promote consistent vigilance and relevant action, each entity in this network should have a focal point dealing with the exploitation of children in child prostitution and child pornography.

42. States and national and international organizations should highlight the responsibility of both the organizer and customer in child exploitation through national and international campaigns. This implies, in particular, a call to incriminate customers of child victims of prostitution and those who make, distribute or possess child pornography.

V. EXPLOITATION OF CHILDREN

43. With regard to the exploitation of children by adults, we call upon all Governments to ensure, if they have not already done so, that all international norms and standards designed to protect the child against such abuses are thoroughly reflected in regional, national and local legislation and practice. We call upon the judiciary and law enforcement agencies to ensure, as a matter of strengthening the rule of law, that such legislation is consistently applied.

44. We urge States to enforce their laws relating to the exploitation of children, including trafficking in and sexual exploitation of children and exploitation of child labour. In particular, we urge States to apply due diligence to prevent and investigate such acts of exploitation against children and to ensure that appropriate sanctions are applied against the adults who exploit the children, rather than against the children who are victims of such crimes.

45. We urge States, supported by the United Nations interregional, regional and affiliated institutes, to develop multidisciplinary training, education and information activities for law enforcement and other criminal justice personnel, as well as for those in other relevant professions such as health care and early childhood and primary education, on the sexual exploitation of children including the activities of paedophiles and paedophile networks.

46. We urge States, in the absence of existing laws, to adopt legislation to punish and redress the wrongs caused to children who are exploited, including making trafficking in children and sexual exploitation of children outside the country by nationals and permanent residents offences.

47. The United Nations should develop a code of conduct on child rights for United Nations peace-keeping operations to prevent United Nations personnel from becoming involved in child exploitation, and this should become an integral and necessary element of training for all such personnel before embarking on any mission.

48. We request States to establish legal, administrative and institutional measures to combat sex tourism. We encourage the World Tourism Organization (WTO), the Centre for Human Rights, the Crime Prevention and Criminal Justice Branch and UNICEF to cooperate more closely on the establishment of a network which aims at the identification and elimination of all forms of sex tourism. WTO in particular is encouraged to continue its efforts to combat organized sex tourism by different activities, especially by adopting the draft declaration on organized sex tourism. Its members are urged to respect this declaration, and to assist WTO in its relevant activities.

49. States should encourage exchange programmes between law enforcement personnel and other bilateral exchanges to deal with transnational trafficking in children. Such programmes might, for example, also entail the stationing of police personnel of one country in other countries to track nationals of the former where they may be a threat to the children of the latter. Such cooperation may be facilitated by the increased exchange of information, such as lists of known paedophiles and crime-linked data, in conformity with data protection legislation. Close cooperation with regard to transnational activities of these networks needs to be established or fostered between Member States in order to establish an international tracking mechanism.

50. We urge States to ensure that children who have been sexually exploited or who are at risk of being sexually exploited have access to assistance that meets their needs, including access to the mechanisms of justice such as legal aid, adequate and safe housing, support services, economic assistance, counselling and health and social services to promote their safety, social reintegration and physical and psychological recovery. Special assistance should be given to those children who are suffering from HIV and acquired immunodeficiency syndrome (AIDS) and should include measures to protect them against discrimination and other harm. Emphasis should be placed upon family-based and community-based rehabilitation rather than institutionalization.

51. Where children are trafficked across frontiers, States and national and international organizations should ensure that the true age of the children is ascertained by independent and objective assessment, preferably with the cooperation of the non-governmental sector. This depends, in part, upon effective birth registration of all children in their country of origin. If they are to be returned to the country of origin, their safety must be guaranteed by independent monitoring and follow-up. Pending their return to the country of origin, they should not be treated as illegal migrants by the receiving countries, but should be dealt with humanely as special cases of humanitarian concern. Upon the return of the children, the country of origin should treat them with respect and in accordance with the international human rights principles, backed up by adequate family-based rehabilitation measures.

52. National laws should explicitly prohibit the exploitation of children for organ transplants, bearing in mind the Guiding Principles on Human Organ Transplantation.[7] States and national and international organizations should ensure effective monitoring of organ transplantation, in particular the role of the private sector and clinics, in order to prevent abuses. In this connection, the medical sector and related professional organizations should be mobilized to report on abuses.

53. States and national and international organizations should ensure public education, including measures aimed at children, on the dangers of child exploitation, in particular child prostitution and other manifestations of the instrumental use of children in and for criminal activities.

54. A central registry of all missing children should be established in every country, and transfrontier exchanges of information should be fostered to trace and monitor the cases concerned.

55. States and national and international organizations, including the private business sector, should be encouraged to prepare and adopt a "business code on child protection" as a basic standard for their conduct towards children in order to counter child abuse, neglect and exploitation. Peer pressure should be exerted on the members of the business community, including transnational corporations, to respect the rights of the child.

56. States and national and international organizations should address the fact that legislation should be periodically reviewed to counter the use of new forms of technology for the purposes of child exploitation.

57. As the sale of children, child prostitution and child pornography are becoming increasingly transnational in character, States should expand extradition arrangements, mutual assistance agreements and other forms of inter-State cooperation to facilitate interchanges.

58. States and national and international organizations should foster changes to traditions which perpetuate child exploitation, not only through the enactment of legislation but also by educational measures and consciousness-raising.

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[1]General Assembly resolution 40/33, annex, of 29 November 1985.

[2]General Assembly resolution 45/112, annex, of 14 December 1990.

[3]General Assembly resolution 45/113, annex, of 14 December 1990.

[4]General Assembly resolution 44/25, annex, of 20 November 1989.

[5]E/CN.4/1995/100.

[6]United Nations, *Treaty Series*, vol. 658, No. 9431.

[7]See World Health Organization, *Forty-fourth World Health Assembly, Geneva, 6-16 May 1991, Resolutions and Decisions, Annexes* (WHA 44/1991/REC/1), annex 6.

UNITED NATIONS

NINTH
UNITED NATIONS CONGRESS
ON THE PREVENTION OF CRIME
AND THE TREATMENT OF OFFENDERS

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Item 3 of the provisional agenda*

INTERNATIONAL COOPERATION AND PRACTICAL TECHNICAL ASSISTANCE FOR STRENGTHENING THE RULE OF LAW: PROMOTING THE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME

Note verbale dated 30 November 1994 from the Permanent Mission of Finland to the United Nations (Vienna) addressed to the Director-General of the United Nations Office at Vienna

The Permanent Mission of Finland presents its compliments to the Director-General of the United Nations Office at Vienna and has the honour to herewith submit the text of a draft resolution entitled "International cooperation and practical assistance for strengthening the rule of law: development of United Nations model agreements" for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

The Permanent Mission of Finland avails itself of this opportunity to renew to the Director-General of the United Nations Office at Vienna the assurances of its highest consideration.

*A/CONF.169/1.

DRAFT RESOLUTION

International cooperation and practical assistance for strengthening the rule of law: development of United Nations model agreements

The Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Recalling that the General Assembly, in the statement of principles and programme of action of the United Nations crime prevention and criminal justice programme, annexed to its resolution 46/152 of 18 December 1991, established among the goals of the programme, *inter alia*, the strengthening of regional and international cooperation in criminal justice, more efficient and effective administration of justice, with due respect for human rights, and the promotion of the highest standards of fairness, humanity, justice and professional conduct,

Calling attention to the discussions at the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on international cooperation and practical technical assistance for strengthening the rule of law, and in particular the discussions in the workshop on extradition and international cooperation, on specific problems in the practical implementation of extradition treaties and related forms of international cooperation and on methods of overcoming those problems, as well as on how extradition and other international cooperation should function, on general impediments to extradition and on how to balance extradition obligations against reasonable grounds for denial,

Noting that the United Nations model agreements on international cooperation in criminal matters have made a significant contribution to the development of international cooperation,

Noting also the important contribution of intergovernmental and non-governmental organizations to the promotion of bilateral and multilateral agreements on such international cooperation, including the recommendations adopted by the International Law Association at its sixty-sixth conference, held at Buenos Aires, from 14 to 20 August 1994, on extradition and human rights, and by the International Association of Penal Law at its fifteenth congress, held at Rio de Janeiro, Brazil, from 4 to 10 September 1994, on the regionalization of international criminal law and the protection of human rights in international cooperation in criminal proceedings,

1. *Urges* the Commission on Crime Prevention and Criminal Justice to consider, subject to the availability of extrabudgetary funds, the convening of a meeting of an expert group to examine practical recommendations for the further development and promotion of the United Nations model agreements on international cooperation in criminal matters as well as for the development of model legislation on extradition and related forms of international cooperation in criminal matters;

2. *Recommends* that the expert group should consider ways and means of increasing the efficiency of extradition and related forms of international cooperation in criminal matters, having due regard to protection of human rights, including such issues as:

(a) The possible abolition of the rule of non-inquiry into the fairness and legitimacy of procedures conducted in other States;

(b) The circumstances that are most likely to preclude or otherwise affect extradition, taking into consideration in the requesting State the possible use of the death penalty, torture or degrading treatment, the possible absence of fair trial standards and the degree of risk of violation of human rights;

(c) The legal aspects of conditional extradition;

(d) The possible abolition and modification of traditional obstacles to extradition in order to increase the effectiveness of extradition procedures;

3. *Also recommends* that the expert group should consider, in the light of the discussion of the workshop on the topic "Extradition and international cooperation: exchange of international experiences and implementation of relevant principles in national legislation", organized within the framework of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, ways and means of further developing and promoting the United Nations model agreements, as well as the development of model legislation on extradition and related forms of international cooperation in criminal matters, having due regard to protection of human rights, including such measures as:

(a) The wider utilization of the United Nations model agreements;

(b) The provision of technical assistance in the development of bilateral agreements based on those model agreements;

(c) The drafting of alternative or complementary articles for existing model agreements and the drafting of articles for possible model multilateral treaties, as well as for model legislation;

4. *Recommends* that a report on the implementation of the present resolution should be submitted to the Commission on Crime Prevention and Criminal Justice at its fifth session.

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Item 6 of the provisional agenda*

CRIME PREVENTION STRATEGIES, IN PARTICULAR AS RELATED TO CRIMES IN URBAN AREAS AND JUVENILE AND VIOLENT CRIMINALITY, INCLUDING THE QUESTION OF VICTIMS: ASSESSMENT AND NEW PERSPECTIVES

Letter dated 12 December 1994 from the Counsellor and Alternate Resident Representative of Canada to the United Nations (Vienna) addressed to the Executive Secretary of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

I am pleased to transmit to you the draft resolution on the elimination of violence against women, which the Government of Canada will introduce at the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

(*Signed*) Philip MacKinnon
Counsellor and Alternate
Resident Representative

*A/CONF.169/1.

DRAFT RESOLUTION

Elimination of violence against women

The Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Welcoming the proclamation by the General Assembly, in its resolution 48/104 of 20 December 1993, of the Declaration on the Elimination of Violence against Women,

Recognizing that women are entitled to guarantees, safeguards and benefits of all human rights recognized in the Universal Declaration of Human Rights,[1] the International Covenant on Economic, Social and Cultural Rights,[2] the International Covenant on Civil and Political Rights,[2] the Declaration on the Elimination of Violence against Women and other international human rights standards,

Also recognizing that violence against women both violates human rights and fundamental freedoms and impairs or nullifies the enjoyment by women of those rights and freedoms, and concerned about the long-standing failure to protect and promote those rights and freedoms,

Further recognizing that the effective implementation of the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly in its resolution 34/180 of 18 December 1979, contributes to the elimination of violence against women and that the Declaration on the Elimination of Violence against Women strengthens and complements this process,

Strongly condemning all forms of violence against women as set out in the Declaration on the Elimination of Violence against Women,

Bearing in mind that customary, traditional and religious considerations should not be invoked by States to avoid their obligations with respect to the elimination of violence against women,

Recalling that the World Health Assembly, in its resolution WHA 47/10 of 10 May 1994, entitled "Maternal and child health and family planning: Traditional practices harmful to the health of women and children",[3] urged all Member States to establish national policies and programmes that would effectively, and with legal instruments, abolish female genital mutilation, child-bearing before biological and social maturity, and other harmful practices affecting the health of women and children,

Looking forward to the Fourth United Nations World Conference on Women: Action for Equality, Development and Peace, to be held at Beijing from 4 to 15 September 1995,

Concerned that violence against women remains an obstacle to the achievement of equality, development and peace, as recognized in the Nairobi Forward-looking Strategies for the Advancement of Women,[4] and to the full implementation of the Convention on the Elimination of All Forms of Discrimination against Women,

Noting with appreciation the Vienna Declaration and Programme of Action,[5] adopted by the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993, and its confirmation that women's rights are an inalienable, integral and indivisible part of human rights, as well as its affirmation that gender-based violence and all forms of sexual harassment and exploitation are incompatible with the dignity and worth of the human person, and must be eliminated,

Recalling Commission on Human Rights resolution 1994/45 of 4 March 1994, in which the Commission, *inter alia*, condemned all violations of the human rights of women, including acts of gender-based violence against women,

Welcoming the appointment by the Commission on Human Rights, in its resolution 1994/45, of the Special Rapporteur on Violence against Women,

Recalling Economic and Social Council resolution 1993/26 of 27 July 1993, on violence against women in all its forms,

Noting with appreciation the Programme of Action of the International Conference on Population and Development,[6] held at Cairo from 5 to 13 September 1994, and, in particular, its principle 4, which states that advancing gender equality and equity and the empowerment of women, and the elimination of all kinds of violence against women, and ensuring women's ability to control their own fertility are cornerstones of population and development-related programmes,

Calling attention to the fact that it is important that perpetrators of violence against women should receive appropriate punishment and treatment and that appropriate crime prevention measures should be instituted,

Alarmed by acts of sexual violence directed notably against women during periods of armed conflict, as expressed in the declaration[7] of the International Conference for the Protection of War Victims, held at Geneva from 30 August to 1 September 1993, and reiterating the concern expressed in the declaration that such acts constitute grave breaches of international humanitarian law,

Welcoming the role of non-governmental organizations, women's groups and community agencies in addressing and working towards the elimination of violence against women, in particular in drawing attention to the nature, severity and magnitude of violence against women and in assisting women who are victims of violence,

Expressing deep concern about the high social, health and economic costs to the individual and society that are associated with violence against women,

Emphasizing that the protection of human rights is a significant consideration within the criminal justice system as a whole,

Concerned about the particular vulnerability of women accused of criminal activities to human rights violations following their arrest and during their detention,

Bearing in mind that, although violence against women occurs across all economic and ethnic boundaries, women living in poverty, elderly women, women belonging to visible minority groups, women migrant workers, women in situations of armed conflict, aboriginal women and women with disabilities are particularly vulnerable to violence,

Strongly condemning all violations of the human rights of women,

1. *Urges* Member States, in order to prevent, prohibit and punish all forms of violence against women, to adopt, in the absence of existing laws:

(a) Penal sanctions to punish the perpetrators of violence;

(b) Measures that ensure that the re-victimization of women does not occur because of gender-insensitive laws, enforcement practices or other interventions;

(c) Measures to prevent, prohibit and punish marital rape and all practices harmful to women and girl children, including female genital mutilation;

(d) Legal measures to prohibit or restrain persons from harassing, intimidating or threatening women or using any method that harms or endangers their lives or integrity, or damages their property;

(e) Legislation to control the acquisition, storage and use of firearms;

2. *Also urges* Member States to enforce their laws relating to violence against women, in particular to apply due diligence to prevent and investigate acts of violence against women, whether those acts are perpetrated by the State or by private persons;

3. *Further urges* Member States to take appropriate measures to eliminate violence against women in detention;

4. *Further urges* Member States to promote the access of women subjected to violence to assistance that meets their needs, *inter alia*, access to the mechanisms of justice, to restitution, reparations or other just and effective remedies, to adequate and safe housing, to support services, assistance in child care and economic assistance and to counselling, health and social services in order to promote their safety and physical and psychological healing;

5. *Further urges* Member States to develop consultation mechanisms to promote the participation of women and women's organizations in making decisions concerning crime prevention and criminal justice;

6. *Further urges* Member States to consider developing programmes and services to permit the views of women who are victims of violence to be taken into account during pre-trial and criminal trial proceedings, in sentencing and in making decisions to grant parole or other forms of conditional release;

7. *Further urges* Member States to develop intervention programmes and treatment services to modify the attitudes and behaviour of perpetrators while ensuring the safety of women subjected to violence;

8. *Further urges* Member States to promote multidisciplinary training, educational and information-sharing activities to sensitize law enforcement and other justice personnel, as well as persons in other relevant professions such as health care and education, to problems related to violence against women;

9. *Further urges* Member States to promote and support public education and information activities to ensure gender equality, to heighten public awareness of violence against women and of its criminal nature and to assist in preventing all forms of violence against women;

10. *Further urges* Member States to study and exchange information on how the experiences of persons subjected or exposed to violence against women may be related to subsequent violent behaviour;

11. *Further urges* Member States to promote research, collect data and compile statistics by gender on the various forms of violence against women and to encourage research on the causes, nature, seriousness and consequences of violence against women and on the effectiveness of measures implemented to prevent and redress such violence;

12. *Requests* Member States to cooperate at the international level, by using bilateral, regional or multilateral mechanisms, including extradition and mutual assistance in criminal matters, that will support their efforts to enforce their legislation on violence against women;

13. *Urges* Member States to encourage the development of appropriate media guidelines in order to contribute to the eradication of violence against women and to enhance respect for their dignity by discouraging the perpetuation of pro-violence values and stereotypes of women;

14. *Also urges* Member States to take special account of women's vulnerability to violence in situations of armed conflict, including murder, torture, rape and systematic rape, sexual slavery and forced pregnancy, *inter alia*:

(a) By observing strictly international humanitarian law, as well as minimum standards for human rights set forth in international human rights instruments;

(b) By ensuring that women subjected to violence during armed conflict have safe and timely access to assistance by humanitarian organizations;

(c) By punishing the perpetrators of such violence;

15. *Requests* the Secretary-General to ensure that *Strategies for Confronting Domestic Violence: a Resource Manual*,[8] which is based on a draft prepared by the Government of Canada in cooperation with the Crime Prevention and Criminal Justice Branch of the Secretariat and with the European Institute for Crime Prevention and Control, affiliated with the United Nations, and is currently available in English only, is published in the other official languages of the United Nations, subject to the availability of regular budget or extrabudgetary funds;

16. *Urges* Member States to disseminate the publication entitled *Strategies for Confronting Domestic Violence: a Resource Manual* and to take steps to facilitate its full utilization;

17. *Recommends* that the in-sessional working group of the Commission on Crime Prevention and Criminal Justice, at its fourth session, should seek ways in which practical activities could be developed, including training, research and advisory services, to achieve the goal of preventing and eradicating violence against women, and in doing so, to have regard to the relevant recommendations and proposals of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

18. *Urges* the Commission on Crime Prevention and Criminal Justice to consider this issue a priority for the biennium 1996-1997 in the context of its mandate on crime prevention and criminal justice, and to undertake the work in close collaboration with the Commission on the Status of Women, the Committee on the Elimination of Discrimination against Women, the Special Rapporteur on Violence against Women, the Commission on Human Rights, including the Subcommission on Prevention of Discrimination and Protection of Minorities, and the World Health Organization;

19. *Invites* the institutes in the United Nations crime prevention and criminal justice programme network to undertake practical activities to combat violence against women, including the provision of training and advisory services, and to develop proposals on other measures that could be taken in the field of crime prevention and criminal justice to combat violence against women;

20. *Requests* Member States to consider the recommendations on violence against women that were made in the workshop on prevention of violent crime, organized within the framework of the Ninth Congress, which are annexed to the present resolution.

Notes

[1]General Assembly resolution 217 A (III) of 10 December 1948.

[2]General Assembly resolution 2200 A (XXI), annex, of 16 December 1966.

[3]See World Health Organization, *Forty-seventh World Health Assembly, Geneva, 2-12 May 1994, Resolutions and Decisions, Annexes* (WHA 47/1994/REC/1).

[4]*Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi, 15-26 July 1985* (United Nations publication, Sales No. E.85.IV.10), chap. I, sect. A, para. 288.

[5]*Report of the World Conference on Human Rights, Vienna, 14-25 June 1993* (A/CONF.157/24 (Part I)), chap. III.

[6]A/CONF.171/13, chap. I, resolution 1, annex, chap. II.

[7]A/48/742, annex.

[8]ST/CSDHA/20.

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Items 4 and 6 of the provisional agenda*

ACTION AGAINST NATIONAL AND TRANSNATIONAL ECONOMIC AND ORGANIZED CRIME, AND THE ROLE OF CRIMINAL LAW IN THE PROTECTION OF THE ENVIRONMENT: NATIONAL EXPERIENCES AND INTERNATIONAL COOPERATION

CRIME PREVENTION STRATEGIES, IN PARTICULAR AS RELATED TO CRIMES IN URBAN AREAS AND JUVENILE AND VIOLENT CRIMINALITY, INCLUDING THE QUESTION OF VICTIMS: ASSESSMENT AND NEW PERSPECTIVES

Note verbale dated 15 December 1994 from the Permanent Mission of Japan to the United Nations (Vienna) addressed to the United Nations Office at Vienna

The Permanent Mission of Japan to the International Organizations in Vienna presents its compliments to the United Nations Office at Vienna and, with reference to the Secretary-General's letter of 24 October 1994, has the honour to transmit, in accordance with rule 28 of the rules of procedure for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, contained in the annex to Economic and Social Council resolution 1993/32, the draft resolution prepared by the Japanese Government for the Ninth Congress, to be held at Cairo.

Due to technical reasons, the draft resolution transmitted with the note verbale dated 30 November 1994 should be replaced by the attached text. It would be appreciated if the United Nations Office at Vienna could circulate this text as the draft resolution submitted by Japan.

The Permanent Mission of Japan to the International Organizations in Vienna avails itself of this opportunity to renew to the United Nations Office at Vienna the assurances of its highest consideration.

*A/CONF.169/1.

DRAFT RESOLUTION

Control of firearms

The Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Bearing in mind that one of the purposes of the United Nations, as stated in Article 1 of the Charter of the United Nations, is to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all,

Recalling General Assembly resolution 46/152 of 18 December 1991, on the creation of an effective United Nations crime prevention and criminal justice programme,

Also recalling Economic and Social Council resolution 1994/19 of 25 July 1994, on preparations for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Welcoming with appreciation the conclusions and recommendations of the five regional preparatory meetings for the Ninth Congress[1] in particular the resolution of the Asia and Pacific Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Bangkok from 17 to 21 January 1994,[2] and the resolution of the Western Asia Regional Preparatory Meeting for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Amman from 20 to 24 March 1994,[3] in which Member States were called on to promote the adequate control of firearms and other high-risk weapons by means of both regulations and law enforcement with a view to diminishing violent criminality,

Bearing in mind Commission on Narcotic Drugs resolution 9 (XXXVI) of 7 April 1993, on the relationship between the illicit traffic in arms and explosives and illicit drug trafficking, in which the Commission recommended that States should consider establishing or improving appropriate controls on transfers of explosives, munitions and armaments,

Acknowledging that the General Assembly, in its resolution 49/159 of 23 December 1994, took note with appreciation of the conclusions and recommendations of the World Ministerial Conference on Organized Transnational Crime, held at Naples, Italy, from 21 to 23 November 1994,[4]

1. *Adopts* the Declaration on the Control of Firearms, annexed to the present resolution;

2. *Requests* the Commission on Crime Prevention and Criminal Justice, at its fourth session, to submit the Declaration on the Control of Firearms, through the Economic and Social Council, to the General Assembly for its approval;

3. *Also requests* the Commission on Crime Prevention and Criminal Justice, at its fifth session, to consider, under a separate agenda item, measures to control firearms commonly applicable to Member States, such as the prevention of transnational illicit trafficking in firearms, with a view to suppressing the use of firearms in criminal activities;

4. *Requests* the Secretary-General to establish and maintain close cooperation with Member States and intergovernmental and other organizations active in the field of firearms control, *inter alia*, by the regular exchange of data and other information on, among other things, the following topics:

(a) Criminal cases in which firearms are used, including the number of such cases and the number of victims involved, and the status of control of firearms by law enforcement authorities;

(b) The situation with regard to transnational illicit trafficking in firearms;

(c) National legislation and regulations relevant to the control of firearms;

(d) Relevant initiatives for the control of firearms at the regional and interregional levels;

5. *Also requests* the Secretary-General to initiate a study on, *inter alia*, the topics listed in paragraph 4 above, in order to provide the Commission on Crime Prevention and Criminal Justice at its fifth session with a basis for its consideration of measures to control firearms;

6. *Calls upon* Member States and intergovernmental and other organizations active in the field of firearms control to extend their full support to the United Nations crime prevention and criminal justice programme and its activities in that field;

7. *Requests* the Secretary-General to report to the Commission on Crime Prevention and Criminal Justice, at its fifth session, on the implementation of the present resolution, including recommendations for further concerted action at the global level.

Annex

DECLARATION ON THE CONTROL OF FIREARMS

We, the Member States of the United Nations,

Assembled at Cairo to consider ways and means of promoting international cooperation in the field of crime prevention and criminal justice and, *inter alia*, of establishing effective crime prevention strategies,

Alarmed by the general incidence of crimes, in particular by the extent of criminality and by the dangers posed to public welfare by new forms of criminal activities that transcend national boundaries,

Alarmed also by the high cost of crime, in human and material terms, especially in its new transnational forms, and aware of the effects of crime both on institutions of States and on individual victims,

Conscious of the responsibility of States not only to prevent crime and protect human rights, but also to ensure that justice is done and that the rule of law is upheld throughout the criminal justice process,

Aware that the full enjoyment of human rights can be facilitated by the concerted efforts of States to ensure the security of law-abiding citizens,

Deeply concerned over the grave suffering in the international community caused by the high incidence of violent crimes involving the use of firearms,

Concerned that the high incidence of crimes involving the use of firearms is closely related to the abundance of firearms in society without appropriate control of their possession and storage and, *inter alia*, to the fact that even persons who are most likely to use them for criminal activities have easy access to them,

Affirming that the eradication of crimes involving the use of firearms is a goal that the international community should pursue,

Determined to expand the scope of international cooperation in the field of firearms control,

Declare herewith the following:

(a) Criminal activities in which firearms are used are increasing because illicit trafficking in firearms, at both the national and the transnational levels, is expanding. With the increasing dimensions and scale of international transport and the increasing sophistication of transnational illicit trafficking, no State is immune to the effects of lacking or lax legislative and administrative control of firearms in other States. There is currently an urgent need to establish a common strategy for effective control of firearms at the global level;

(b) Illicit trafficking in firearms is a widespread transnational criminal activity that frequently involves transnational criminal syndicates. States should take effective action against it, through mutual cooperation, the exchange of information and the coordination of law enforcement activities;

(c) While primary responsibility for the control of firearms rests with States, the achievement of that goal depends to a large extent on the confidence of the population, with the understanding of and support from the general public. States should therefore give due attention to promoting public awareness campaigns on the control of firearms;

(d) All United Nations organs, bodies and specialized agencies should be urged to take up more seriously the issue of firearms control, within the framework of their mandates. Interested intergovernmental and non-governmental organizations should be encouraged to actively contribute, in accordance with their areas of competence, to promoting the control of firearms;

(e) In order to facilitate the activities of the United Nations in the field of firearms control, sufficient resources, both financial and human, should be allocated to the Crime Prevention and Criminal Justice Branch of the Secretariat.

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[1]A/CONF.169/RPM.1/Rev.1 and Corr.1, A/CONF.169/RPM.2, A/CONF.169/RPM.3 and Corr.1, A/CONF.169/RPM.4 and A/CONF.169/RPM.5.

[2]A/CONF.169/RPM.1/Rev.1 and Corr.1.

[3]A/CONF.169/RPM.5.

[4]A/49/748, annex.

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Item 5 of the provisional agenda*

CRIMINAL JUSTICE AND POLICE SYSTEMS: MANAGEMENT AND IMPROVEMENT OF POLICE AND OTHER LAW ENFORCEMENT AGENCIES, PROSECUTION, COURTS AND CORRECTIONS; AND THE ROLE OF LAWYERS

Letter dated 16 December 1994 from the Permanent Mission of Poland to the United Nations (Vienna) addressed to the Executive Secretary of the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders

Upon instruction of my authorities I have the pleasure to submit, in pursuance of rule 28 of the rules of procedure for the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to be held at Cairo from 29 April to 8 May 1995, the draft resolution entitled "Criminal justice management in the context of accountability of public administration and sustainable development". This draft resolution relates to item 5 of the provisional agenda for the Ninth Congress.

Accept, Sir, the assurances of my highest consideration.

(*Signed*) Jerzy M. Nowak
Ambassador

*A/CONF.169/1.

DRAFT RESOLUTION

Criminal justice management in the context of accountability of public administration and sustainable development

The Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,

Bearing in mind that criminal justice administrators should be answerable for their performance in the criminal justice system and that all administrators are responsible for humane and efficient criminal justice operations,

Bearing in mind also that criminal justice management is a part of public administration accountable to the public at large,

Emphasizing that criminal justice operations should be part of a policy of sustainable development of resources that includes ensuring justice and the safety of citizens,

Recalling the statement of principles and programme of action of the United Nations crime prevention and criminal justice programme, annexed to General Assembly resolution 46/152 of 18 December 1991, which stipulates that in determining areas of priority of the programme, consideration should be given to, *inter alia*, empirical evidence, including research findings and other information on the nature and extent of crime and on trends in crime,

Recalling General Assembly resolution 45/109 of 14 December 1990, on computerization of criminal justice, in which the Assembly requested the Secretary-General to establish an international group of experts that would, *inter alia*, review and assess national experiences in the computerization of criminal justice,

Recalling the resolution entitled "Management of criminal justice and development of sentencing policies" adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,[1]

Considering the importance of the clearing-house functions of the Crime Prevention and Criminal Justice Branch of the Secretariat, as emphasized by the Economic and Social Council in its resolutions 1992/22, section I, of 30 July 1992 and 1993/34, section IV, of 27 July 1993 and by the Commission on Crime Prevention and Criminal Justice in its resolution 3/3 of 5 May 1994,

Conscious of the ever-changing nature of criminal activities, including new ways and means of committing and concealing criminal acts, and of the difficulties encountered by criminal justice systems in dealing with those activities, particularly in detecting and preventing such acts, in the context of rapidly developing information technology, including computerized international networking and data handling, which provide opportunities for the abuse of privacy,

Recognizing that modern types and forms of criminality present a challenge to the traditional legislative and administrative, including statistical, framework of criminal justice operations and call for modern data automation projects that facilitate system-wide administration,

Aware that the present legislative and operational capabilities of the United Nations crime prevention and criminal justice programme lag behind the challenges posed by the ever-growing sophistication, organization and internationalization of crime,

Alarmed by the fact that the various new forms of crime that have spread throughout Europe are not limited by borders of States or continents,

Convinced that global economic, political and legal transformations call for new modalities for the exchange of experiences and information in criminal justice management with a view to providing a basis for sustainable development,

Realizing that the openness of criminal justice administrators to managerial innovations in other States, with due regard to the legal, social and cultural specificity of each jurisdiction, may help to alleviate the common problem of dealing with new forms of crime resulting from a more dynamic movement of peoples and ideas, regionally and interregionally,

Mindful of the role of the United Nations Crime and Justice Information Network as a viable tool for the exchange of information in the context of changing patterns and forms of crime, criminal justice operations and crime prevention strategies,

1. *Calls upon* Member States to intensify their efforts to exchange experiences and innovations in criminal justice operations by bringing to the attention of top-level and middle-level decision makers the benefits of cross-national analyses of developments in crime and justice at the global, regional and national levels in a practical manner;

2. *Encourages* Member States, intergovernmental organizations and non-governmental professional organizations to include in their programmes of work developmental projects that deal with criminal justice management issues in a more comprehensive manner, taking into consideration accountability and sustainability;

3. *Welcomes* in this context projects dealing with global trends in conventional and transnational crime and justice issues, including the development of the United Nations Crime and Justice Information Network, which are being implemented pursuant to the Economic and Social Council resolution 1992/22, section I;

4. *Invites* Member States and intergovernmental and non-governmental organizations to contribute to the further development of the United Nations Crime and Justice Information Network, that being one of the ways to promote a more dynamic and efficient exchange of criminal justice information within the international community;

5. *Urges* Member States, intergovernmental and non-governmental organizations to become active members of the United Nations Crime and Justice Information Network by mobilizing expertise, material and other resources in order to make its services more responsive to evolving information needs;

6. *Requests* the Commission on Crime Prevention and Criminal Justice, starting with its fourth session, to make periodic reviews of the membership and databases of the United Nations Crime and Justice Information Network, with a view to increasing the participation in the Network of members of the Commission, intergovernmental and non-governmental organizations, and academic and other research institutions;

7. *Requests* developed countries to promote the broader participation of developing countries in the United Nations Crime and Justice Information Network by offering them assistance in:

(a) Reviewing data and other information needs in their criminal justice operations with a view to making those operations a more accountable part of public administration;

(b) Financing the training of criminal justice and technical staff involved in collecting, providing and disseminating data and other information to be included in national criminal justice statistical databases and in the United Nations Crime and Justice Information Network;

(c) Organizing study tours, donating computer equipment and programs, and covering telecommunication expenses;

8. *Requests* the Commission on Crime Prevention and Criminal Justice to urgently consider recommending the establishment of an ad hoc expert group on statistical and computerized criminal justice applications to advise the Commission, through the Secretary-General, on related technical cooperation projects, including their funding by the public and private sectors;

9. *Requests* the Commission on Crime Prevention and Criminal Justice at its fourth session to urgently consider the resource implications involved in strengthening the management and information functions of the Crime Prevention and Criminal Justice Branch of the Secretariat and other elements of the United Nations crime prevention and criminal justice programme to reflect the resolve of the international community to pursue the programme priorities determined in accordance with the statement of principles and programme of action of the programme, annexed to General Assembly resolution 46/152;

10. *Requests* the Secretary-General to prepare for the consideration of the Commission on Crime Prevention and Criminal Justice at its fifth session a comprehensive action plan on criminal justice management, commensurate with the priorities of the United Nations crime prevention and criminal justice programme, and to report to the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders on the implementation of that action plan.

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[1]See *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. C.19.